

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

IN RE:

HARLON BROOKS and
ALFREDDIE BROOKS, et al.
Debtors

§
§
§
§
§
§

CASE NO. 09-38232-H4-7

(Chapter 7 – Jointly Administered)

**TRUSTEE'S EMERGENCY MOTION TO AUTHORIZE SALE ON SAME
TERMS AS PREVIOUSLY APPROVED BUT TO DIFFERENT BUYER**

NOTICE PURSUANT TO LOCAL RULE 9013

THIS MOTION SEEKS AN ORDER THAT MAY ADVERSELY AFFECT YOU. IF YOU OPPOSE THE MOTION, YOU SHOULD IMMEDIATELY CONTACT THE MOVING PARTY TO RESOLVE THE DISPUTE. IF YOU AND THE MOVING PARTY CANNOT AGREE, YOU MUST FILE A RESPONSE AND SEND A COPY TO THE MOVING PARTY. YOU MUST FILE AND SERVE YOUR RESPONSE WITHIN 21 DAYS OF THE DATE THIS WAS SERVED ON YOU. YOUR RESPONSE MUST STATE WHY THE MOTION SHOULD NOT BE GRANTED.

IF YOU DO NOT FILE A TIMELY RESPONSE, THE RELIEF MAY BE GRANTING WITHOUT FURTHER NOTICE TO YOU. IF YOU OPPOSE THE MOTION AND HAVE NOT REACHED AN AGREEMENT, YOU MUST ATTEND THE HEARING. UNLESS THE PARTIES AGREE OTHERWISE, THE COURT MAY CONSIDER EVIDENCE AT THE HEARING AND MAY DECIDE THE MOTION AT THE HEARING.

REPRESENTED PARTIES SHOULD ACT THROUGH THEIR ATTORNEY.

EMERGENCY RELIEF HAS BEEN REQUESTED. IF THE COURT CONSIDERS THE MOTION ON AN EMERGENCY BASIS, THEN YOU WILL HAVE LESS THAN 21 DAYS TO ANSWER. IF YOU OBJECT TO THE REQUESTED RELIEF OR IF YOU BELIEVE THAT THE EMERGENCY CONSIDERATION IS NOT WARRANTED, YOU SHOULD FILE AN IMMEDIATE RESPONSE.

TO THE HONORABLE UNITED STATES BANKRUPTCY JUDGE:

COMES NOW W. Steve Smith, Trustee of the bankruptcy estate of Harlon Brooks and Alfreddie Brooks, et al. and files this Trustee's Emergency Motion to Authorize Sale on Same Terms as Previously Approved but to Different Buyer, and would respectfully show the following:

1. On January 12, 2011, Trustee filed Application to Employ Realtor and Motion for Authority to Sell Property in the Name of Harlon Brooks Free and Clear of all Liens, Claims, Interests, and Encumbrances under 11 U.S.C. § 363(f) (Doc. #146) (the “Motion”). There was no objection.

2. On February 8, 2011, the Motion was approved (Doc. #162).

3. The authorized sales portion of the Motion pertained to property located at 517 East Main, Nacogdoches, Texas (the “Property”). The buyer was AMDI, Inc. (“AMDI”) and the price was \$70,000.

4. The authorization to sell came too late and AMDI refused to proceed to closing. Trustee has returned the earnest money.

5. A Motion similar to the Motion (Doc. #145) for sale of other property in close proximity (507 East Main) to the Property to W. H. Bryant, Jr. (“Bryant”) was approved also on February 8, 2011 (Doc. #161). Bryant has made an offer to buy the Property on the same terms and price as the AMDI offer, provided this sale can be authorized within the next seven (7) days so that sale can be consummated at the same time as the sale to him of 507 East Main.

6. The Sale of the Property, heretofore approved, but now with the substituted Buyer being Bryant, is in the best interest of the estate and should be approved.

7. The emergency situation is created by Bryant’s requirement that the sale be approved on or before March 11, 2011. Granting approval on an emergency basis is warranted in view of the fact that all terms of this sale, not objected to previously, are the same. Trustee certifies the foregoing.

WHEREFORE, PREMISES CONSIDERED, Trustee prays this Motion be approved and that he be granted such other and further relief to which he may show himself justly entitled.

Dated this 3rd day of March, 2011.

Respectfully submitted,

By: /s/ Blanche D. Smith

Blanche D. Smith
State Bar No. 00783991
W. Steve Smith
State Bar No. 18700000
1331 Lamar Street, Ste. 1250
Houston, Texas 77010
Telephone: (713) 590-9300
Facsimile: (713) 590-9399

ATTORNEYS FOR CHAPTER 7 TRUSTEE

CERTIFICATE OF SERVICE

I hereby certify that true and correct copy of the above filing is being served on March 4, 2011, on all parties listed on the attached list via regular first class mail, postage prepaid, with the exception of an address marked with an asterisk (*) denoting the party will not receive this motion via U.S. Mail as previous mail has been returned. All ECF users registered in this case will receive electronic service of this filing on March 3, 2011.

/s/ Blanche D. Smith

Blanche D. Smith